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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,032	06/08/2001	Tom Charles McCartney	626/002	1617

7590 06/22/2005

Thomason, Moser & Patterson, LLP  
Suite 100  
595 Shrewsbury Avenue  
Shrewsbury, NJ 07702

EXAMINER
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AZAD, ABUL K

ART UNIT	PAPER NUMBER
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2654

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/878,032	<b>Applicant(s)</b> MCCARTNEY ET AL.	
	<b>Examiner</b> ABUL K. AZAD	<b>Art Unit</b> 2654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is in response to the communication filed on January 27, 2005.
2. Claims 1-34 are pending in this action. Claims 1, 7, 25, 33 and 34 have been amended.
3. Applicant's arguments with respect to claims 1-34 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 7-21, 23-29 and 31-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilcox et al. (EP 0 866 397).

As per claim 1, Wilcox teaches, "method for constructing a digital talking book from text data and audio data", said method comprising the steps of:

"accessing a first synchronization file that identifies a plurality of synchronizable elements of the text data" (col. 2, line 48 to col. 3, line 6);

"accessing a second synchronization file that identifies a plurality of time points of the audio data, wherein said plurality of synchronizable elements of the text data are

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produced independently of said plurality of time points of the audio data" (col. 6, line 54 to col. 7, line 19); and

"building links between said identified synchronizable elements of the text data with said identified time points of the audio data" (col. 5, lines 47-58).

As per claim 2, Wilcox teaches, "inserting a graphical representation for each of said identified synchronizable elements of the text data" (col. 5, lines 47-58).

As per claim 3, Wilcox teaches, "inserting a graphical representation for each of said identified time points of the audio data" (col. 6, lines 54-58).

As per claim 4, Wilcox teaches, "wherein said graphical representation indicates whether its associated synchronizable element is synchronized" (col. 3, lines 1-6).

As per claim 5, Wilcox teaches, "displaying both of said identified synchronizable elements of the text data and said time points of the audio data on a display" (col. 4, lines 25-36).

As per claim 7, Wilcox teaches, clicking one of said synchronizable elements on said display to display said linked associated text data as being highlighted the text" (Fig. 3, element 38).

As per claims 8-16, 24 and 32, Wilcox teaches to perform an editing function (col. 7, line 20 to col. 8, line 19).

As per claims 17-21, 23, 25-29, 31, 33 and 34, they are interpreted and thus rejected for the same reasons set forth in the rejection of claims 1-5 and 7.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6, 22, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilcox et al. (EP 0 866 397) as applied to claims 5, 21 and 29 above, and further in view of Lamming (EP 0 495 612).

As per claims 6, Wilcox teaches a Recorded play back (Fig. 2, element "play") and a monitor (Fig. 2, element 26).

As per claim 6, Wilcox does not explicitly teach to playback audio by clicking the corresponding text data. However, Lamming teaches to playback audio by clicking the corresponding text data (col. 2, lines 47-58). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use text data to playback the corresponding audio because one ordinary skill in the art would readily recognized that provide corresponding audio for convenience of the user to listen the audio without distracting other work.

As per claim 22, 30, they are interpreted and thus rejected for the same reasons set forth in the rejection of claim 6.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

***Contact Information***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ABUL K. AZAD whose telephone number is (571) 272-7599. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RICHEMOND DORVIL can be reached on (571) 272-7602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'A.K. Azad', with a large, stylized flourish at the end.

ABUL K. AZAD  
Primary Examiner  
Art Unit 2654

June 6, 2005